



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2012-0099; FRL-9910-80-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Reasonable Further Progress Plan and Motor Vehicle Emissions Budgets for the Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area; Enhanced Monitoring; Clean Fuel Fleets and Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP) to meet certain serious area requirements under section 182(c) of the Clean Air Act (CAA or Act) for the Dallas/Fort Worth (DFW) nonattainment area under the 1997 8-hour ozone standard. Further, we are proposing to approve revisions to the DFW moderate area attainment demonstration SIP that address the failure-to-attain contingency measures and proposing to approve revisions to the Texas SIP that address control of air pollution from motor vehicles and transportation conformity. The EPA is proposing to approve these SIP revisions because they satisfy the requirements of section 110 and part D of the CAA.

DATES: Comments must be received on or before **[insert date 30 days from date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R06-OAR-2012-0099, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions.
- E-mail: Ms. Carrie Paige at *paige.carrie@epa.gov*.
- Mail: Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental

Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2012-0099. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* website is an “anonymous access” system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD-ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of

any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Paige, Air Planning Section (6PD-L); telephone (214) 665-6521; e-mail address paige.carrie@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" means EPA.

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I. What is the EPA Proposing?

The EPA is proposing to approve all or parts of six SIP revisions from the State of Texas as they relate to certain CAA requirements. Our actions fall into three categories. First, the EPA is proposing to approve revisions to the Texas SIP submitted to meet certain serious area requirements of section 182(c) of the Act for the DFW serious nonattainment area under the 1997 ozone standard. Specifically, we are proposing to approve the revised 2002 base year emission inventory (EI), the reasonable further progress (RFP) plan, the RFP motor vehicle emission budgets (MVEBs) for 2011 and 2012, and the RFP contingency provisions. In addition, we are proposing to find that the State has fulfilled the CAA requirements for enhanced ambient monitoring and the clean-fuel fleet programs (CFFPs). Second, we are proposing to approve revisions to the DFW SIP's failure-to-attain contingency measures plan for the moderate ozone nonattainment area under the 1997 ozone standard. Third, we are proposing to approve revisions to Title 30 of the Texas Administrative Code, Chapter 114 (denoted 30 TAC 114 or Chapter 114) pertaining to mobile source control. Specifically, we are proposing to approve revisions that make the Texas transportation conformity rules consistent with the Federal Surface Transportation Reauthorization Act¹ and revisions that add provisions to certain sections within the State's Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles (DERIP, also often referred to as the Texas Emission Reduction Plan or TERP).

¹ The Federal Surface Transportation Reauthorization Act is commonly known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU).

II. Background for the Actions under Section 182(c) of the CAA (the serious area requirements)

On July 18, 1997, EPA promulgated an 8-hour ozone standard of 0.08 parts per million (ppm)² and on April 30, 2004, the EPA designated the DFW area (consisting of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant counties)³ as a moderate nonattainment area under the 1997 ozone standard with an attainment date of June 15, 2010 (see 69 FR 23858 and 69 FR 23951). However, the DFW area failed to attain the 1997 ozone standard by June 15, 2010, and was consequently reclassified as a serious ozone nonattainment area (75 FR 79302, December 20, 2010).⁴ Accordingly, the TCEQ was required to submit revisions to the DFW SIP to meet serious area requirements. In this action, we are addressing the serious area RFP plan, contingency measures, enhanced monitoring and clean fuel fleet requirements that were submitted in revisions dated January 17, 2012.

A. Reasonable Further Progress

The CAA requires that areas designated as nonattainment for ozone and classified as moderate or worse demonstrate RFP in reducing emissions of ozone precursors (nitrogen oxides or NO_x and volatile organic compounds or VOCs).⁵ A RFP plan generally is designed to achieve annual progress toward meeting the ozone national ambient air quality standard (NAAQS)

² See 62 FR 38856. In this action we refer to the 1997 8-hour ozone standard as “the 1997 ozone standard.”

³ We refer to the DFW nonattainment area for the 1997 ozone standard as “the nine-county nonattainment area.” The nine-county nonattainment area consists of the four core counties (Collin, Dallas, Denton and Tarrant) and five “cradle” counties. The cradle counties are Ellis, Johnson, Kaufman, Parker and Rockwall, and in prior SIP actions, we referred to these as “the five new counties.” Since these counties are no longer new to the nonattainment designation and geographically they “cradle” the four core counties, we are adopting the term “cradle” herein for ease of identification.

⁴ On March 12, 2008, the EPA promulgated a more protective 8-hour ozone standard of 0.075 ppm (73 FR 16436, March 27, 2008). On April 30, 2012, the EPA promulgated designations under the 2008 ozone standard (77 FR 30088, May 21, 2012) and in that action, the EPA designated Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant and Wise counties as a moderate ozone nonattainment area. The RFP required under the 2008 ozone standard must be submitted to EPA by July 20, 2015. The submittals under evaluation in today’s rulemaking do not specifically address the 2008 ozone standard, but will provide progress toward this new standard.

⁵ For additional information on ozone, please visit www.epa.gov/groundlevelozone.

through reductions in emissions of NO_x and/or VOCs. On November 29, 2005 (70 FR 71612) and as revised on June 8, 2007 (72 FR 31727), EPA published the Phase 2 final rule to implement the 1997 ozone standard that addressed, among other things, the RFP control and planning obligations as they apply to areas designated nonattainment for the 1997 ozone standard. In the Phase 1 Rule, RFP was defined in §51.900(p) as meaning for the purposes of the 1997 ozone standard, the progress reductions required under section 172(c)(2) and section 182(b)(1) and (c)(2)(B) and (c)(2)(C) of the CAA (69 FR 23951, 23997, April 30, 2004).⁶ RFP plans must also include a MVEB, which provides the allowable on-road mobile emissions an area can produce and continue to demonstrate RFP (57 FR 13498, 13558, April 16, 1992).

The RFP plan for the DFW moderate ozone nonattainment area was approved on October 7, 2008 (73 FR 58475) and it demonstrated required emissions reductions through the end of calendar year 2008 and MVEBs for 2008. Because the area was reclassified to serious, pursuant to section 182(c)(2)(B)(i) of the Act and 40 CFR 51.910, the RFP SIP for the DFW serious ozone nonattainment area must demonstrate NO_x and/or VOC emissions reductions of at least nine percent for the calendar years 2009 - 2011 and three percent for 2012. The emissions reductions must occur within the nine-county nonattainment area.

B. Contingency Measures

Pursuant to section 172(c)(9) of the Act, RFP plans must include contingency measures that will take effect without further action by the State or EPA, which include additional controls that would be implemented if the area fails to reach the RFP milestones. While the Act does not specify the type of measures or quantity of emissions reductions required, EPA interprets the Act to mean that implementation of these contingency measures would provide additional emissions reductions of up to 3% of the adjusted base year inventory (or a lesser percentage that will make

⁶ See also the RFP regulations at 40 CFR 51.910 and EI regulations at 40 CFR 51.915.

up the identified shortfall) in the year following the RFP milestone year. For more information on contingency measures, please see the April 16, 1992 General Preamble (57 FR 13498, 13510) and the Phase 2 implementation rule (70 FR 71612, 71650).

C. Enhanced Monitoring

States with serious and worse ozone nonattainment areas are required to implement, among other things, enhanced ambient monitoring, pursuant to section 182(c)(1) of the Act. The enhanced ambient monitoring identifies the magnitude and type of ozone precursor emissions in the nonattainment area where maximum precursor emissions are expected to impact (see 71 FR 61236, October 17, 2006 and 40 CFR Part 58, Appendix D).

D. Clean Fuel Fleet Program

Section 182(c)(4) of the Act requires States have programs to require certain fleet operators to include a percentage of clean-fuel vehicles in their new fleet purchases to reduce emissions of ozone precursors. Section 182(c)(4) of the Act also allows substitute programs to achieve equivalent reductions. (See 59 FR 50042, September 30, 1994 and 40 CFR Part 88).

III. Background for the Failure-to-Attain Contingency Measures

Contingency provisions are also required for attainment plans and on January 14, 2009 (74 FR 1903) we approved the attainment demonstration for the DFW moderate ozone nonattainment area, including the failure-to-attain contingency plan. In an April 6, 2010, SIP revision Texas revised its plan by replacing the plan's reliance on offset lithography with fleet turnover because offset lithography was being implemented in response to EPA's issuance of a control technique guideline (CTG). When the DFW area was reclassified as a serious ozone

nonattainment area (75 FR 79302), two failure-to-attain contingency measures were implemented.⁷

IV. Background for the Revisions to Chapter 114

A. The Transportation Conformity Revisions

Section 176(c) of the Act requires states to submit a transportation conformity SIP establishing enforceable procedures for making determinations that metropolitan transportation plans, programs and projects (activities) approved by the Federal Highway Administration or the Federal Transit Administration meet or “conform to” the area’s air quality SIP. Transportation conformity is a mechanism for ensuring that transportation activities are reviewed and evaluated for their impacts on air quality prior to funding or approval. The intent of transportation conformity is to ensure that new transportation activities do not cause or contribute to new violations, increase the frequency or severity of any existing violations, or delay the timely attainment of air quality standards or the required interim emissions reductions towards attainment. On July 25, 2007, Texas submitted revisions to their transportation conformity requirements that are addressed in this action.

B. The Revisions to the Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles

The Texas SIP includes a variety of control strategies to reduce ozone precursor emissions in nonattainment and near-nonattainment areas, including the TERP, a program that provides financial incentives to eligible entities to reduce emissions from polluting vehicles and

⁷ These contingency measures related to Degassing or Cleaning of Stationary, Marine, and Transport Vessels and Petroleum Dry Cleaning Systems (see the Texas Register, 35 TexReg 4268, dated May 21, 2010 and available in the docket for this rulemaking).

equipment.⁸ The basic structure of TERP as an economic incentive program was approved into the SIP on November 14, 2001 (66 FR 57160). Since then, the TERP has grown to offer a variety of grants, including the DERIP. The DERIP is designed to offset the incremental cost of projects that can reduce NOx emissions from heavy duty diesel trucks and construction equipment in nonattainment areas. This is an incentive to owners and operators to upgrade their fleets at an expedited rate and these upgrades will reduce NOx emissions to the atmosphere. The EPA approved the DERIP into the Texas SIP on August 19, 2005 (70 FR 48647). On March 25, 2010 and April 13, 2012, Texas submitted revisions to the DERIP that are addressed in this action.

V. What are the EPA's Evaluations of these Revisions?

Summaries of our analyses are provided in this section. Our detailed evaluations are provided in two technical support documents (TSDs): one addressing the RFP submittal and identified as TSD-A; and the other focused on the revisions to 30 TAC 114 and the failure-to-attain contingency measures and labeled as TSD-B. These TSDs are in the docket for this action.

A. The DFW RFP SIP Revision

On January 17, 2012, the Texas Commission on Environmental Quality (TCEQ) submitted a SIP revision to address the RFP requirements for the DFW serious ozone nonattainment area. The submittal includes a revised 2002 base year EI for stationary and mobile sources, and the RFP plan, which must demonstrate NOx and/or VOC emissions reductions of at least nine percent for 2009 - 2011 and three percent for 2012, the RFP MVEBs for 2011 and 2012, and RFP contingency measures.

1. The DFW Base Year Emissions Inventory

⁸ Additional information on the TERP is available on the TCEQ website at www.tceq.texas.gov/airquality/terp. In addition, please see our TSD for the revisions to 30 TAC 114 (labeled as TSD-B) in the docket for this rulemaking.

The base year EI is the starting point for calculating the reductions necessary to meet the requirements for RFP. Sections 172(c)(3) and 182(b)(1) of the CAA require that nonattainment plan provisions include an inventory of NO_x and VOC emissions from all sources in the nonattainment area. The EPA had previously approved the 2002 base year inventory (73 FR 58475). Since that submittal, more recent data (including, for example, actual local activity data for 2002) and improvements in methods to calculate certain categories within the inventory have become available. Because of these advances, the TCEQ revised the emissions data for the 2002 base year. We have determined that the revised inventory was developed in accordance with EPA guidance and therefore, we propose to approve the revised 2002 base year EI. For reference, the previously approved base year EI (73 FR 58475) is provided in Table 1, reported in tons per day (tpd), along with the revised 2002 base year EI for the DFW area, also reported in tpd. Details on how each of the emissions categories was revised and emissions totals in the various counties are included in TSD-A. Details on how each of the emissions categories was revised is included in TSD-A.

Table 1: DFW RFP 2002 Base Year EI

Source Type	NO _x		VOC	
	Previously approved	Revised inventory*	Previously approved	Revised inventory*
Point	79.25	79.24	26.42	26.43
Area	37.04	38.63	237.41	247.03
On-road Mobile	356.23	354.01	161.60	139.70
Non-road Mobile	134.67	153.41	119.60	82.05
Total	607.19	625.29	545.03	495.21

* Submitted to EPA by the TCEQ on January 17, 2012.

2. The Adjusted Base Year Inventory and RFP Target Levels for 2011 and 2012

The 2002 base year EI is the starting point for calculating RFP. Section 182(b)(1)(B) of the Act and 40 CFR 51.910 require that the base year EI be adjusted to exclude certain emissions specified in section 182(b)(1)(D) of the Act, i.e., the emission reductions resulting from the Federal Motor Vehicle Control Programs (FMVCP) promulgated by EPA prior to January 1, 1990, and the regulation of Reid Vapor Pressure promulgated by EPA prior to the enactment of the CAA Amendments of 1990. The result, after subtracting the non-creditable reductions, is the “adjusted base year inventory.” The required RFP target levels and emission reductions needed would be calculated using the adjusted base year inventory, resulting in the target levels of emissions for the milestone years, which in this case are 2011 and 2012.

In calculating the RFP target levels, section 182(c)(2)(C) of the Act, 40 CFR 51.910 and EPA’s NO_x Substitution Guidance⁹ allow NO_x emissions reductions to be substituted for VOC controls if such would maximize reductions in ozone air pollution. Modeling performed by the TCEQ for this RFP plan indicates that ozone formation in the DFW area is more responsive to NO_x: for similar decreases in NO_x (78 tpd) and VOC (80 tpd), the DFW 8-hour ozone design value would be reduced significantly more from NO_x cuts (-3.43 ppb) than VOC (-0.12 ppb). As a result, the State has chosen to focus on NO_x reductions to meet the RFP requirements.

Tables 2 and 3 provide an accounting of the required emissions reductions through 2008 and 2012, and the target emissions levels of NO_x and VOC for 2011 and 2012. For reductions through 2008 the TCEQ provided NO_x reductions for the four core counties and VOC reductions in the five cradle¹⁰ counties (73 FR 58475); we show these reductions in Table 2, using the revised 2002 base year EI. Table 3 shows the reductions required through 2011 and 2012 for the nine-county nonattainment area.

⁹ See www.epa.gov/ttn/caaa/t1/memoranda/noxsubst.pdf and www.epa.gov/ttn/oarpg/t1/memoranda/clarisub.pdf

¹⁰ See footnote 3.

Table 2: Calculation of NO_x and VOC Reductions through 2008 (tpd)¹¹

Description	NO _x in 4 Core Counties	VOC in 5 Cradle Counties
a. 2002 Emissions Inventory	486.53	69.08
b. Non-creditable reductions through 2008	- 3.09	2.23
c. 2002 adjusted to 2008 (a-b)	489.62	66.85
d. 15% reductions required through 2008 (0.15 x c)	73.44	10.03

Table 3: Calculation of NO_x and VOC Target Levels of Emissions (tpd) through 2012

Description	9-county area	
	NO _x	VOC
a. 2002 Emissions Inventory	625.29	495.21
b1. Non-creditable reductions, 2002 – 2011 (FMVCP + RVP)	- 0.55	17.53
b2. 15% reductions required through 2008	73.44	10.03
b3. 9% reductions required through 2011	56.33	--
c. 2002 Adjusted to 2011 [a-(b1+b2+b3)], or 2011 Targets	496.07	467.65
d1. Non-creditable reductions for 2012 (FMVCP + RVP)	- 4.62	- 4.30
d2. 3% Reductions required for 2012	18.91	--
e. 2002 Adjusted to 2012 [c-(d1+d2)], or 2012 Targets	481.78	471.95

3. The 2011 and 2012 Projected Emissions Inventories and How the Required Emissions Reductions are Achieved

Section 182(b)(1)(A) of the Act requires that States provide sufficient control measures in their RFP plans to offset growth in emissions. To do this, the State must estimate the amount of growth that will occur between 2002 and the end of 2011 and 2012. Generally, the State followed our guidelines in estimating the growth in emissions. The projections of growth are labeled as the “Uncontrolled Inventories” for 2011 and 2012. Our detailed evaluation is provided in our TSD-A.

Texas estimated emission reductions from State and federal control measures in place between 2002 and the end of 2011 and 2012,¹² and applied these reductions to the appropriate

¹¹ These are calculated using the revised 2002 base year EI. For reference, please see the TSD-A.

¹² The control measures address emissions from point, area, and mobile (non-road and on-road) sources and are listed in our TSD-A.

uncontrolled inventories; the results are the “Controlled Inventories” for 2011 and 2012. The total amount of VOC and NO_x emissions in the controlled inventories for 2011 and 2012 must be equal to or less than the corresponding total target inventories to demonstrate RFP.

Table 4. Summary of RFP Demonstration for DFW through 2011 (tpd)

Inventory	NO_x	VOC
2011 Targets	496.07	467.65
2011 Uncontrolled Emissions	1168.59	823.46
Projected Emission Reductions through 2011	759.79	283.01
2011 Projected Emissions after RFP Reductions	408.80	540.45
Surplus (+)/Shortfall (-)	+87.27	-72.80
Is RFP Met? (Surplus greater than Shortfall)	Yes	Yes

In Table 4, we see that the plan shows a surplus of NO_x emission reductions and a shortfall in the required VOC reductions. The NO_x surplus of 87.27 tpd is approximately 18% more reductions than necessary to meet the target of 496.07 tpd. The VOC shortfall of 72.80 tpd is approximately 16% less reductions than necessary to meet the target of 467.65 tpd. The shortfall in VOC reductions is apparently due to growth in VOC emissions. The Table shows Texas has offset this growth in VOC emissions with additional NO_x reductions on a percentage basis (i.e., 1% NO_x reductions offsets 1% VOC growth). In the RFP submittal, Texas notes they are “reserving” 77.29 tpd of the surplus NO_x reductions (approximately 16%) to offset the VOC shortfall. Because Texas has offset the VOC growth plus provided the necessary RFP NO_x reductions, the EPA is proposing that the emissions reductions projected for 2011 are sufficient to meet the 2011 targets.

Table 5. Summary of RFP Demonstration for DFW through 2012 (tpd)

Inventory	NO_x	VOC
2012 Targets	481.78	471.95
2012 Uncontrolled Emissions	1194.94	846.38
Projected Emission Reductions through 2012	815.86	313.88
2012 Projected Emissions after RFP Reductions	379.08	532.50
Surplus (+)/Shortfall (-)	+102.70	-60.55
Is RFP Met? (Surplus greater than Shortfall)	Yes	Yes

In Table 5, again we see a surplus of NO_x reductions necessary to offset a shortfall in VOC reductions. The NO_x surplus of 102.70 tpd is approximately 21% greater than necessary to meet the target of 481.78 tpd. The VOC shortfall of 60.55 tpd is approximately 13% less than necessary to meet the target of 471.95 tpd. The NO_x surplus again is greater than the VOC shortfall. In the RFP submittal, Texas notes they are “reserving” 61.86 tpd of the surplus NO_x reductions (approximately 13%) to compensate for the VOC shortfall. Because Texas has offset the VOC growth and provided the necessary RFP NO_x reductions, EPA is proposing that the emissions reductions projected for 2012 are sufficient to meet the 2012 targets.

4. The RFP Contingency Measures

The 1997 8-hour ozone RFP plan for a serious nonattainment area must include contingency measures, which are additional controls to be implemented if the area fails to make reasonable further progress. Contingency measures are intended to achieve reductions over and beyond those relied on in the RFP demonstration and could include federal and State measures already scheduled for implementation. The CAA does not preclude a State from implementing such measures before they are triggered. Texas used federal and State measures currently being implemented to meet the contingency measure requirement for the DFW RFP SIP. These measures provide reductions between 2012 and 2013 that are in excess of those needed for RFP. As shown in Table 6, the excess reductions are greater than 3% of the adjusted base year inventory. We are proposing that these reductions are sufficient as RFP contingency measures.

Table 6. Summary of RFP Demonstration for DFW, Contingency Measures (tpd)

Description	NO_x	VOC
2002 Emission Inventory adjusted to 2012	630.46	481.97
3% needed for contingency (630.46 x 0.03)	18.91	0.00
Total RFP contingency reductions available	24.44	15.62
Is the contingency measure requirement met?	Yes	Yes

5. The Motor Vehicle Emissions Budgets (MVEBs)

The RFP plan must include a MVEB for transportation conformity purposes. The MVEB is the mechanism to ensure that future transportation activities will not produce new air quality violations, worsen existing violations, delay reaching RFP milestones, or delay timely attainment of the NAAQS. A MVEB establishes the maximum amount of emissions allowed in the SIP for on-road motor vehicles.

On January 17, 2012, the TCEQ submitted its RFP SIP, which contains VOC and NO_x MVEBs for 2011 and 2012; these budgets are provided in Table 7. We found the RFP MVEBs (also termed transportation conformity budgets) adequate and on February 27, 2012, the availability of these budgets was posted on our website for the purpose of soliciting public comments. The comment period closed on March 28, 2012, and we received no comments. On February 1, 2013, we published the Notice of Adequacy Determination for these RFP MVEBs (78 FR 7429). Once determined adequate, these RFP budgets must be used in future DFW transportation conformity determinations. The adequacy determination represents a preliminary finding by EPA of the acceptability of the MVEB. Today we are proposing that the MVEBs are fully consistent with RFP, and we are proposing to approve the RFP plan, as it sets the allowable on-road mobile emissions the DFW area can produce and continue to demonstrate RFP.

Table 7. RFP Motor Vehicle Emissions Budgets for DFW (tpd)

Year	NO_x	VOC
2011	197.05	89.54
2012	195.39	82.20

B. The Requirement to Address Enhanced Ambient Monitoring

Section 182(c)(1) of the CAA requires that States with serious and worse nonattainment areas adopt and implement a program to improve air monitoring for ambient concentrations of ozone, NO_x and VOC. The State established an enhanced ambient air quality monitoring network in the form of the Photochemical Assessment Monitoring Stations (PAMS), which was approved into the Texas SIP on October 4, 1994 (59 FR 50502).¹³ On January 17, 2012, the TCEQ submitted an attainment demonstration SIP revision that in part demonstrated that by 2012, the DFW area would meet the serious nonattainment area requirement for enhanced monitoring. The submittal stated that the enhanced monitoring would be in place by the attainment deadline of June 15, 2013. In 2012, the air monitor at the Dallas Hinton site was enhanced to add carbonyl¹⁴ measurements. These air monitoring improvements are consistent with section 182(c)(1) of the CAA, the Revisions to the Ambient Air Monitoring Regulations at 71 FR 61236 and 40 CFR Part 58, Appendix D. The 2012 monitoring update is documented in the State's air monitoring network plan, provided in the docket for this rulemaking.¹⁵ We are proposing to approve that portion of the submittal that addresses the requirements of section 182(c)(1) of the CAA for the nine-county nonattainment area.

C. The Requirement to Address Clean-fuel Fleet Programs

Section 182(c)(4) of the CAA requires that states with serious and worse nonattainment areas implement federal CFFPs. Section 182(c)(4) also allows states to implement substitute programs whose long term emissions reductions are equal to or greater than the federal CFFPs. Texas submitted a substitute program (which included the Texas Clean Fleet or TCF Program)

¹³ Annual revisions to the air monitoring network plan (AMNP) are provided to the EPA for approval and the most recently approved AMNP is in the docket for this rulemaking.

¹⁴ Carbonyl compounds are organic compounds, consisting of a carbon atom double bonded to an oxygen atom. The PAMS measures the three carbonyls formaldehyde, acetaldehyde and acetone. Formaldehyde and acetaldehyde have been found to be very important in the formation of ground-level ozone.

¹⁵ See the Texas 2012 Annual AMNP documents in the docket for this rulemaking.

that we approved on February 7, 2001 (66 FR 9203). In addition to TCF Program of fleet measures, this substitute program included substitute stationary source measures. In a subsequent revision to the TCF program, we approved on January 31, 2014 (79 FR 5287), TCEQ repealed their TCF program. In the attainment demonstration SIP revision submitted on January 17, 2012, Texas cited an EPA determination¹⁶ that, beginning with the 2007 model years, both the Tier 2 conventional vehicle and engine standards and heavy-duty vehicle and engine standards are either equivalent to or more stringent than the applicable clean fuel vehicle program low emission vehicle (LEV) standards. In our January 31, 2014 approval action, we explain that because 2007 model year Heavy Duty Diesel and Tier II vehicle meet or exceed the LEV standards and because Texas' substitute measures are still in place, Texas continues to meet the Federal CFFP requirements. We are confirming in today's action that this serious area requirement is met for the DFW area.

We are proposing to approve that portion of the submittal that addresses the requirements of section 182(c)(4) of the CAA for the nine-county nonattainment area.

D. Revisions to the Failure-to-Attain Contingency Measures

Section 172(c)(9) of the Act requires nonattainment SIPs to provide for a contingency plan that will take effect without further action by the State or EPA if an area fails to make reasonable further progress or fails to attain the standard by the applicable date. On January 14, 2009, the EPA approved the State's attainment demonstration for the DFW moderate ozone nonattainment area for the 1997 ozone standard, which included a contingency plan (74 FR 1903). On April 6, 2010, the TCEQ submitted revisions that address, among other things, the failure-to-attain contingency measures in the DFW moderate ozone nonattainment area. In this

¹⁶ See EPA Dear Manufacturer Letter CCD-05 (LDV/LDT/MDPV/HDV/HDE/LD-FC), July 21, 2005, in the docket for this rulemaking.

SIP revision, we are acting on only the revisions addressing the failure-to-attain contingency measures in the DFW nonattainment area, which remove offset lithographic printing at 30 TAC 115.449(c) as a contingency measure and substitute surplus emissions reductions from fleet turnover. This revision is necessary because EPA issued a CTG in 2006 for offset lithographic printing, requiring states to update their rules consistent with the requirements of the CTG. Therefore, when Texas responded to the CTG with rulemaking for this source category, it also “back-filled” this contingency measure.

Our detailed evaluation is provided in the TSD-B. The surplus reductions from fleet turnover are sufficient to make up the loss of offset lithographic printing as a contingency measure and meet the requirements for a contingency measure under sections 172 and 182 of the CAA. See 57 FR 13498, 13510; and 70 FR 71612, 71651. We are proposing approval of this revision. It should be noted that this proposed approval comes after the fact of implementation of the other contingency measures relied upon in this moderate area contingency plan. Our proposed approval recognizes that these measures met the Act’s requirements. As discussed above, the State adopted a serious area plan with its own contingency measures.

E. Revisions to Chapter 114

As noted earlier, we are also evaluating three Texas SIP submittals that revise 30 TAC 114, which addresses control of air pollution from motor vehicles. These submittals include programs or measures that assist in reducing ozone precursor emissions and may be implemented in the DFW area.

1. The Texas Transportation Conformity Rules

Transportation conformity is required by section 176(c) of the Act. The Texas SIP has included transportation conformity provisions since November 8, 1995 (60 FR 56244) and EPA

most recently approved revisions to these provisions on July 6, 2005 (70 FR 38776). On July 25, 2007, the TCEQ submitted a SIP revision to make the Texas transportation conformity rules at 30 TAC 114.260 consistent with the Federal Surface Transportation Reauthorization Act, commonly known as the SAFETEA-LU, which was enacted by Congress on August 10, 2005 (Pub. L. 109–59). The July 25, 2007 revision also addresses certain federal requirements relating to PM_{2.5} precursors and when they apply in conformity determinations, pursuant to 40 CFR 93.102 (see also 70 FR 24280, May 6, 2005), and repeals the requirement to perform quantitative PM hotspot analyses, pursuant to 40 CFR 93.116 and 93.123 (see also 71 FR 12468, March 10, 2006). A line-by-line description of the revisions and our evaluation are provided in the TSD-B. These revisions are consistent with the transportation planning rules at 23 CFR Part 450, the conformity rules at 40 CFR Part 93 and EPA’s guidance. We are proposing approval of these revisions.

2. The State’s Diesel Emissions Reduction Incentive Program (DERIP)

The DERIP is an economic incentive program that is part of the State’s TERP program that provides financial incentives to eligible individuals, businesses, and local governments to reduce emissions from polluting vehicles and equipment. On March 25, 2010, and April 13, 2012, the TCEQ submitted SIP revisions that address the DERIP at Chapter 114, Subchapter K (Mobile Source Incentive Programs), Division 3 (Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles). The March 25, 2010, submission adds stationary engines to the DERIP and provides an allowance for projects involving non-road equipment used for natural gas recovery purposes. The April 13, 2012, revision adds incentive program requirements that include, but are not limited to, the period of commitment by a grant recipient for use of the grant-funded vehicles, requirements on the ownership or lease of the vehicles being replaced,

and destruction of the vehicles and engines being replaced. A line-by-line description of the revisions and our evaluation are provided in the TSD-B. These revisions are consistent with EPA's Economic Incentive Program (EIP) Guidance.¹⁷ The revisions provide emissions reductions in Texas, primarily in nonattainment areas and as such, would not interfere with any applicable requirement regarding attainment and RFP, or any other applicable requirement of the CAA. We are proposing approval of these revisions.

VI. Proposed Action

The EPA is proposing to approve revisions to the Texas SIP to meet RFP and certain other requirements of the CAA for the DFW serious nonattainment area under the 1997 8-hour ozone NAAQS. Specifically, the EPA is proposing to fully approve the TCEQ's January 17, 2012 RFP submittal that revises the 2002 base year EI, the RFP plan, the 2011 and 2012 MVEBs, and the contingency measures associated with the DFW RFP SIP. The EPA is also proposing to approve the portions of the TCEQ's January 17, 2012 attainment demonstration submittal that address the CAA requirements for enhanced ambient monitoring and the CFFPs in the DFW serious nonattainment area under the 1997 8-hour ozone NAAQS. We are also proposing to approve the portion of the TCEQ's April 6, 2010 submittal that revises the DFW moderate attainment demonstration SIP's failure-to-attain contingency measures plan. Finally, we are also proposing to fully approve the July 25, 2007, March 25, 2010, and April 13, 2012 submittals to the Texas SIP that address control of air pollution from motor vehicles and transportation conformity rules at 30 TAC 114.260, 30 TAC 114.620, and 30 TAC 114.622. The EPA is proposing to approve these SIP revisions because they satisfy the requirements of section 110 and part D of the CAA and the federal transportation rules.

¹⁷ The EPA's EIP Guidance is available at www.epa.gov/ttn/oarpg/t1/memoranda/eipfin.pdf.

VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 24, 2014.

Ron Curry,

Regional Administrator, Region 6.

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